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APR 5 2005PATENT  
071949-2106IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: BUECHLER et al.

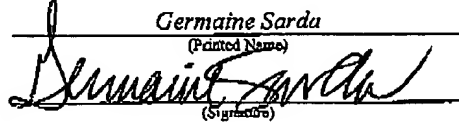
Title: NOVEL METHODS FOR THE  
ASSAY OF TROPONIN I AND T  
AND COMPLEXES OF TROPONIN I  
AND T AND SELECTION OF  
ANTIBODIES FOR USE IN  
IMMUNOASSAYS

Appl. No.: 09/687,051

Filing Date: 10/12/2000

Examiner: G. Gabel

Art Unit: 1641

<b>CERTIFICATE OF FACSIMILE TRANSMISSION</b>	
I hereby certify that this paper is being facsimile transmitted to the United States Patent and Trademark Office, Alexandria, Virginia on the date below.	
	Germaine Sarda (Printed Name)
April 5, 2004 (Date of Deposit)	

PETITION TO CORRECT PATENT TERM ADJUSTMENTPURSUANT TO 37 CFR §1.705Mail Stop Petition  
Commissioner for Patents  
Washington, D.C. 20231

Sir:

Applicant respectfully requests reconsideration of the patent term adjustment included with the Notice of Allowance and Issue Fee Due dated March 28, 2005. Applicant believes the total PTA should be 787 days rather than the listed 751 days. The Applicant was assessed applicant delays (APPL) of 36 days for filing a "Supplemental Response" (characterized as such by the USPTO) on September 25, 2003, which followed the filing of an Appeal Brief 36 days earlier on August 20, 2003.

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However, Applicant's paper dated September 25, 2003 is a "Communication to the Examiner," not a Supplemental Response. Applicant used this Communication to bring a recently discovered prior art reference to the Examiner's attention. No response from the Examiner to the Communication ever issued in the case, and the Board of Patent Appeals and Interferences did not consider the Communication when deciding the Appeal in favor of Applicant. See Decision on Appeal, pages 7-8. According Applicant respectfully submits that the Communication to the Examiner of September 25, 2003 is not a failure to engage in responsible efforts to conclude processing or examination of an application under 37 CFR 1.704 (see more specifically, 1.704(c)(8)). Furthermore, it is noted that the same "Communication to the Examiner" was filed on September 25, 2003 in companion case U.S. serial no. 09/349,194, which was also favorably appealed at the Board of Patent Appeals and Interferences. In that case, the USPTO characterized the "Communication to the Examiner" as a "Miscellaneous Incoming Letter" and did not use the filing of the Communication to penalize Applicant's PTA.

In view of the above, Applicants should not have been assessed 36 days for filing a Communication to the Examiner on September 25, 2003.

Applicant agrees with the remaining PTA assessments. Therefore, PTO delays of 799 days less APPL delays of 12 days results in a total PTA of 787 days.

For these reasons, Applicant respectfully requests that the total PTA be increased from 751 days to 787.

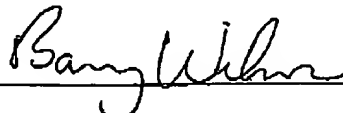
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The required fee of \$200.00 is enclosed or authorized for charge. The Commissioner is authorized to charge or credit any under or overpayment to Deposit Account No. 50-0872.

Respectfully submitted,

Date April 5, 2004

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